

SOLON CITY COUNCIL
February 2, 2009 – 7:00 P.M.

The Solon City Council met at City Hall on the above date.

Present: Council Members Drucker, Kraus (entered at 7:44 P.M.), Pelunis, Russo, Scott, Stolarsky, Suit, Mayor Patton, Law Director Matty, Clerk McConoughey

Absent: None

Vice Mayor Drucker presided.

NOTES OF CAUCUS DISCUSSION:

(Clerk's note: Agenda items not mentioned under Notes of Caucus Discussion are items that were not pertinently discussed during caucus. Agenda topics may not have been discussed in order, however, they have been placed in order for the convenience of this record.)

Also Present: City Services Director Bandiera, City Engineer Busch, Human Resource Director Cornhoff, Planning Director Frankland, Police Chief Godzich, Grantwood Director Mazzeo, Information Technology Director Pokorny, Fire Chief Shaw, Public Works Director Stanek, Finance Director Weber

Vice Mayor Drucker presided.

Vice Mayor Drucker advised Councilman Kraus will be in attendance, however, will be late.

PLANNING COMMISSION:

Mr. Frankland reviewed the following items from the Planning Commission:

1. PP# 952-19-004 – Bainbridge Road/Kruse Drive – Stella Moga, Le Chaperon Rouge – site plan and sign variances: Mr. Frankland reviewed the application involving a new commercial building for a day care center located at the corner of Bainbridge Road and Kruse Drive in the Historic District. Mr. Frankland displayed a drawing indicating the location and reviewed the necessary variances. Mr. Frankland clarified although the Planning Commission approved a wall sign location variance, a number of wall signs variance was actually required for placement of the medallion feature.

Mr. Frankland reviewed the conditions placed on the Planning Commission's approval which included the addition of speed bumps in the parking lot to prevent cut-through traffic as approved by the Planning Director and the Traffic Engineer, the fence trim will match the building and be approved by the Planning

Director and the addition of the third medallion on the Kruse Drive elevation. Mr. Frankland also advised approval should be contingent upon the applicant's agreement that the banked cross access area will abut up to the property line.

Councilman Suit requested the fence design previously shown in PVC material, should be the same, although it will now be required to be a wooden fence.

The letters on the sign should be attached to the brick instead of engraved on the brick so they are removable.

It was clarified that the Planning Commission did not make a formal motion to approve the number of wall signs variance. Mr. Matty suggested the Council approve the remaining variances and site plan contingent upon the Planning Commission's approval of the number of wall signs variance at its next meeting. The number of wall signs variance could then be approved by the Council at its next meeting.

Mr. Frankland said the location of wall sign variance was unnecessary and, therefore, it will not be considered.

2. 28380 Louise Drive – David Takacs – rear yard setback variance: Mr. Frankland said an 8' x 10' deck was constructed on the property without the necessary permit. He explained the deck actually projects only 2' further than the existing house which is grandfathered. A 6' rear yard setback variance is required.

Councilman Suit said this is a case where a permit was applied for and denied. The applicant should have filed for a variance but did not and proceeded with construction of the deck. Councilman Suit intends to make a motion to refer these situations to the Planning Director to increase the fine. He recommended any approval should be contingent upon the applicant paying the current fine.

Councilman Stolarsky said the Planning Commission's approval was conditioned upon the applicant paying the fine and approval of the deck by the Building Department.

PENDING:

3. Ordinance No. 2008-342 – purchase and sale agreement with Realty Income Corporation: Mr. Matty requested this item be removed from the agenda until voluntary agreements are obtained from all of the property owners.

6. Ordinance No. 2009-8 - Briar Lake agreement: Vice Mayor Drucker requested consideration of this item be delayed if Councilman Kraus is not present.

NEW:

8. and 9. Ordinance Nos. 2009-24 and 2009-25 – Healthcare reimbursement accounts: Mr. Cornhoff requested these items remain on first reading.

Vice Mayor Drucker requested all Council Members receive the information provided to the Finance Committee in regard to these items.

CONSENT:

Councilman Suit requested Item 11, Ordinance No. 2009-26 and Item 12, Ordinance No. 2009-27 be removed from the Consent Agenda and remain on first reading. They will be considered following Item 9.

Councilman Russo requested Item 16 be removed from Consent.

Vice Mayor Drucker advised an executive session is necessary for consideration of pending litigation and suggested it be considered prior to the regular meeting.

The caucus ended at 7:16 P.M. and the meeting began at 7:16 P.M.

Motion by Councilman Russo, seconded by Councilman Scott to adjourn into executive session at 7:16 P.M. for the purpose of considering pending and imminent litigation.

Roll Call: Aye: Drucker, Pelunis, Russo, Scott, Stolarsky, Suit

Nay: None

Motion Carried

The meeting reconvened at 7:30 P.M.

Also Present: City Services Director Bandiera, City Engineer Busch, Human Resource Director Cornhoff, Planning Director Frankland, Police Chief Godzich, Grantwood Director Mazzeo, Information Technology Director Pokorny, Fire Chief Shaw, Public Works Director Stanek, Finance Director Weber

CHANGES TO THE AGENDA:

Item 11 was removed from Consent and heard following Item 9.
Item 12 was removed from Consent and heard following Item 11
Item 16 was removed from Consent and heard following Item 12.
Item 17 was removed from Consent and heard following Item 16.
Item 19 was removed from the agenda.

ANNOUNCEMENTS:

Vice Mayor Drucker said announcements are as listed on the agenda.

Mr. Stanek apologized to Councilman Suit for comments made at the previous Council meeting.

COMMENTS FROM THE AUDIENCE:

Mr. Richard Mendelsohn, 32790 Ledge Hill, found comments at the previous Council meeting directed at Briar Hill residents and representatives to be disappointing. Mr. Mendelsohn believes the city should be grateful that Briar Hill residents are willing to contribute the sum in the agreement. He believes from facts and discussions in documents that the location of culverts placed under and connected to Briar Hill Lake were the result of upstream development. He believes based on discussions regarding the culverts, there are potential concerns for residents beyond Briar Hill Development. He said in the discussions, the city is neither a guarantor of conditions to alleviate problems or an insurer of when problems occur. He said the information used in decisions is the amount of city participation or activity involved in the decision-making process. Mr. Mendelsohn said before questioning the contribution of the development, he suggests consideration of the costs that the city has saved by using the lake for retention or detention. Although he understands it is a State regulated dam situation, he believes the City's cooperation is necessary.

Mr. Mark Trau, 7315 Joseph Drive, believes in the past two to three years, city snow removal has become a burden to residents in his neighborhood. He displayed pictures of plowed snow accumulated on his driveway and on the tree lawn. Inasmuch as the Service Department said Mr. Trau's snow plowing contractor leaves the snow on the street, he has changed contractor's three times, however, the problem persists. Therefore, he is asking for a solution to the problem.

MINUTES:

Motion by Councilman Stolarsky, seconded by Councilman Suit to approve the minutes of the January 20, 2009 meeting as presented.

Roll Call: Aye: Drucker, Pelunis, Scott, Stolarsky, Suit

Nay: None

Abstain: Russo

Motion Carried

PLANNING COMMISSION

1. PP# 952-19-004 - Bainbridge Road/Kruse Drive 001-2009
Le Chaperon Rouge -Stella Moga
 - Fence between building and right-of-way variance
contingent upon a 25% aggregate opening wooden fence & Planning Director's approval of an off-white color
 - 19 sq ft wall sign area variance - Kruse/Bainbridge elevation
 - 19 sq ft wall sign area variance - Bainbridge elevation (later determined to be east parking lot elevation)
 - 19 sq ft wall sign area variance - Kruse elevation
 - Site plan – new building

Mr. Frankland displayed the plan and explained the proposal for a new building at the corner of Bainbridge Road and Kruse Drive in the Historic District. An

approximate 14,000 square foot 2-story building is proposed with a 34-space parking lot connecting Bainbridge Road and Kruse Drive. An outdoor play area and trash area are proposed and will be properly screened. The front elevation will face the parking lot, the Kruse/Bainbridge Road elevation will face the intersection and an elevation will face Kruse Drive. Mr. Frankland reviewed the variances, however, noted during the caucus, it was clarified that the location of wall signs variance was unnecessary, but a number of wall signs variance which was not considered by the Planning Commission is required. Therefore, approval would be contingent upon the Planning Commission's approval of a number of wall signs variance.

Mr. Frankland explained the cross access should abut up to the eastern property line to connect to any future development of the property to the east and should be a condition of approval.

Councilman Stolarsky explained the fence variance was found appropriate for the playground area. The applicant preferred wood instead of PVC fencing for durability and the fence will be an off-white color as approved by the Planning Department. Councilman Stolarsky added a contingency that fence approval is based on the design as shown on the plan dated January 19, 2009. He said the medallion on the Kruse Drive elevation was requested by the Commission to enhance the Historic District. Contingencies include the trim of the building will be the same as the fence as approved by the Planning Department and cross access to the property line will be banked.

Councilman Kraus entered the meeting.

Councilman Kraus commended Mr. Frankland for his efforts which resulted in an attractive plan.

Motion by Councilman Stolarsky, seconded by Councilman Kraus to approve the fence between building and right-of-way variance contingent upon a 25% aggregate opening, the fence design will be as shown on the plan of January 19, 2009 and the off-white color will be based on approval of the Planning Director.

It was clarified the fence design will include lattice as shown on the plan of January 19th.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

There were no objections to the 19 sq ft wall sign area variance for the Kruse/Bainbridge elevation, therefore, it stood approved.

There were no objections to the 19 sq ft wall sign area variance for the Bainbridge elevation, therefore, it stood approved.

There were no objections to the 19 sq ft wall sign area variance for the Kruse Drive elevation, therefore, it stood approved.

Motion by Councilman Stolarsky, seconded by Councilman Pelunis to approve the site plan for a new building contingent upon installation of speed bumps in the parking lot as approved by the Planning Director and Traffic Engineer, banked cross access to the property line which will abut the property to the east, the trim color of the building will be an off-white color approved by the Planning Director, and the Planning Commission's approval of a number of wall signs variance.

Mr. Frankland advised there is no medallion on the Bainbridge elevation as indicated in the area variance for Bainbridge Road. The variance should actually be for the east elevation facing the parking lot.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

Motion by Councilman Stolarsky, seconded by Councilman Scott to reconsider the approval of the 19 square foot wall sign area variance for the Bainbridge Road elevation.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

At Councilman Suit's request, Mr. Frankland displayed the plan and indicated the location of the variance.

Motion by Councilman Stolarsky, seconded by Councilman Kraus to modify and approve the 19 square foot area variance for the east elevation.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

2. 28380 Louise Drive – David Takacs 005-2009
▪ 6' Rear yard setback variance

Mr. Frankland displayed the plan and explained the request to maintain an existing deck.

Councilman Stolarsky further explained the Commission's actions and noted Mr. Newberry did not support the variance. Councilman Stolarsky said the angle of the lot poses a practical difficulty, therefore, he supports the variance. He noted since the applicant purchased the property, he has made many improvements to a house which was previously in disrepair. However, the applicant will pay double the permit fee and the building inspector will inspect the deck to assure it is in compliance with code requirements.

There were no objections to the 6' rear yard setback variance, therefore, it stood approved.

Motion by Councilman Suit, seconded by Councilman Russo to refer the issue of increasing fines for property owners who proceed to build without the proper permits to the Planning Director.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit

Nay: None

Motion Carried

PENDING:

3. ORDINANCE NO. 2008-342 AUTHORIZING THE MAYOR TO ENTER INTO A PURCHASE AND SALE AGREEMENT WITH REALTY INCOME CORPORATION FOR THE PURCHASE OF PP#'S 952-17-013 AND 952-17-023 AT 6120 SOM CENTER ROAD. This ordinance has had three readings.

Councilman Suit explained little progress has been made and recommended the item be removed from the agenda.

Motion by Councilman Suit, seconded by Councilman Pelunis to remove Ordinance No. 2008-342 from the agenda.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit

Nay: None

Motion Carried

4. ORDINANCE NO. 2008-346 APPROVING PROPOSED AMENDMENTS TO SECTION 1288.02 OF THE CITY OF SOLON ZONING CODE REGARDING PROPERTY MAINTENANCE REQUIREMENTS. This ordinance has had three readings.

A public hearing was scheduled.

Mr. Frankland briefly explained the amended provisions pertaining to the manner in which the City may remove blighted conditions from properties and how quickly they may take action. In the past, it was necessary to obtain a court order to remove garbage, debris and dangerous conditions which was a month long process. This proposal will adopt certain Ohio Revised Code powers which will allow the City to enter a property to remove dangerous and blighting conditions without a court order. The process would include seven days of notification to the property owner to clean the property. After seven days, the City will clean the property.

Regarding the issue of uncut grass of 8" high or more, the city will provide a 48 hour notification. In the past, if the property owner could not be located, a court order could not be issued. This amendment, will allow the City to move forward to clean the property after publishing notice in a newspaper of local circulation its intention to clean the property.

Mr. Frankland said a budgetary fund of \$25,000 in the Planning Department would be necessary to hire contractors to clean the property. The contractor costs would be reimbursed to the city through the property taxes of the involved property.

Vice Mayor Drucker opened the public hearing and asked for comments.

Mr. Chuck Rudnay, 38475 Pettibone Road, asked if this ordinance would pertain to certain types of driveway violations.

Mr. Frankland said the ordinance applies only to junk, refuse, garbage and debris and to uncut grass.

Mr. Rudnay reviewed a situation regarding uncut grass. He filed a complaint with the Zoning Inspector regarding a neighbor's growth of poison ivy which was seeding onto his property. The inspector said his complaint involved nuisance weeds and she would address the situation after being granted permission to enter his property. He then asked about a situation involving overgrown grass at Grantwood and the inspector informed him she would also address that issue. After a few weeks the situation had not been addressed and Mr. Rudnay contacted the Zoning Inspector who informed him that the property owner was not going to cut the grass because of safety reasons.

Mr. Rudnay said sometime later he spoke with the Planning Director who said the ordinance would not be enforced due to safety and wildlife issues involved with that particular property. Mr. Rudnay questioned the amount of authority granted to the Planning Department and noted his opinion that the City does not follow the same regulations as required of residents. He noted a situation involving a private golf course where there were safety concerns regarding a driving range adjacent to a fairway. The golf course was required to apply for permits and variances to install netting to protect golfers. In the same situation, Grantwood was allowed to use overgrown grass to stop stray golf balls.

Mr. Rudnay feels the City should follow the same regulations as residents and noted many City officials do not live within the City of Solon. He asked the Council to implement a residency requirement, particularly for directors because many do not live in Solon and may not be considering Solon's best interests.

There were no further comments, therefore, the public hearing was closed.

Mr. Frankland said he would not have responded by saying safety and wildlife were the reasons Grantwood's grass is uncut and said he does not recall any discussion with Mr. Rudnay regarding Grantwood.

Mr. Rudnay said the fact remains that the grass is uncut.

Councilman Stolarsky believes the amendments to the Property Maintenance Section of the Code are necessary to alleviate the immediate and obvious problems of junk, high grass and debris.

Councilman Pelunis said it will allow the city to protect the safety and welfare of the city and address resident complaints in a timely matter.

Councilman Suit explained an intersection in his ward contains high grass and obstructs the view of oncoming traffic. He supports the ordinance as it will decrease such safety issues.

Councilman Scott said he has spoken with Mr. Rudnay and with Mr. Mazzeo regarding Grantwood. It was determined to wait until the Pettibone Road reconstruction and sewer project is complete after which time the property will be maintained. He said the addition of inspectors in the Planning Department will aide in the process of inspecting properties.

Motion by Councilman Stolarsky, seconded by Councilman Kraus to amend Ordinance No. 2008-346, to include the notice provision to post such intention in writing on the property in question through notice or other device unless otherwise prohibited with regard to both ordinances and foresee that there may be certain circumstances where, for safety reasons, the inspector is unable to post the notice and, upon the Finance Director's approval, to include a request where actual collection of costs would not require a resolution of Council but would require a notice of the Finance Director.

Vice Mayor Drucker asked if the city would have to state why it was prohibited from entering a property. She feels the owner is entitled to receive notification in writing.

Mr. Matty said the City is attempting to first post notice to meet due process requirements to the land owner for the issue of the problem that needs to be corrected. The inspectors may have situations where a land owner may not permit an inspector on the property, therefore, the language amendment is necessary. The reason for not posting a notice will be in writing in a file in the Planning Department.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

Motion by Councilman Stolarsky, seconded by Councilman Scott to approve Ordinance No. 2008-346 as amended.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

5. ORDINANCE NO. 2009-01 AUTHORIZING THE MAYOR TO EXECUTE A SETTLEMENT AGREEMENT AND MUTUAL RELEASE WITH CAMERATTA PROPERTIES, LP AND DISANTO ENTERPRISES, INC., was read for third reading.

Councilman Scott explained the ordinance is the culmination of an agreement made with DiSanto Enterprises and Cameratta Properties when Signature of Solon II was built. An agreement was reached for payment of the traffic signal in the amount of \$40,000.

Motion by Councilman Scott, seconded by Councilman Kraus to approve Ordinance No. 2009-01.

Councilman Suit opposes the settlement amount because in a previous agreement, the developer agreed to pay for installation of the traffic light. He said the cost of the traffic light will be between \$100,000 to \$110,000 and the engineer identified a reasonable cost to the contractor would be \$70,000. Councilman Suit questioned the settlement amount.

Councilman Stolarsky also opposes the settlement amount.

Vice Mayor Drucker does not support the settlement and she believes the developer should pay the entire amount.

Councilmen Suit and Stolarsky also believe the developer should pay the entire cost.

Roll Call: Aye: Kraus, Pelunis, Russo, Scott
Nay: Drucker, Stolarsky, Suit

Motion Carried

6. ORDINANCE NO. 2009-08 AUTHORIZING THE MAYOR AND FINANCE DIRECTOR TO ENTER INTO A STORM WATER MANAGEMENT LEASE AGREEMENT WITH THE BRIAR LAKE ASSOCIATION AND DECLARING AN EMERGENCY, was read for second reading.

Councilman Kraus commended all those involved in negotiating the agreement. He referred to Mr. Matty's documentation regarding the drafts and redrafts of the lease agreement which occurred throughout the negotiating process. Contrary to comments insinuating that the City was the only party to make concessions, Councilman Kraus believes both the Association and the City compromised during the negotiations.

Councilman Kraus said the City had no rights going into the lease. The City was considered the lessee and the Association was the lessor. In that type of arrangement, the lessor, the Briar Lake Association, has all of the rights and is giving the lessee, City of Solon, certain rights.

Councilman Kraus said both Wade Trim and URS have indicated the need for urgency in resolving this issue.

Councilman Kraus reviewed Mr. Matty's memo of January 27, 2009 regarding the chronology of the negotiations which took place and said as with any negotiation, there were some disagreements between the Association and the City which included legal rights, default provisions and legal actions, construction, the amount of storm water storage necessary, warranty deeds, etc.

Councilman Kraus reviewed the following four significant changes to the agreement which were made in June:

1. The City would be granted an option to purchase the lake and spillway properties for \$1.00 in the event of the dissolution of the Association.

2. Language concerning planning for the possibility that an alternative method for required water storage may have to be considered.

3. A suggested solution to address concerns over the potential cost to the city should there be a breach of the lease by the Association that would require the Association to pay all of the attorney fees resulting from successful litigation.

4. The city demanded complete control over the project including change orders. A solution was agreed upon whereby the city could maintain control over construction and the character of the lake could not be changed without the Association's involvement.

A redraft was proposed in July by the Association to address the above concerns and in August, Mr. Matty proposed revisions regarding alternative means of providing required storm water storage, air space and the City's right to administer construction of the dam.

Additional revisions were made in September regarding change orders in the construction process, the City's right to enter upon the land, and final drafts of the exhibits were requested from the Association.

In October, the Association requested clarification that the City will pay the excess cost of the dam should it exceed \$500,000, and that the City's option to purchase the lake property and spillway will only result from a default caused by dissolution of the Association. These changes were included in a draft on October 8, 2008.

A final draft by the Association, which included the exhibits, was received in January. Upon review by the City Engineer and Law Director, revisions to the lease and exhibits were made.

Councilman Kraus read various portions of the agreement regarding duties, liabilities and responsibilities of both the Association and the City and compared the concessions agreed to by the Association to those of the City. He said the lease was negotiated in good faith and believes it protects the City's interests. Councilman Kraus stressed the need for urgency as noted by Wade Trim and said if this project is not accomplished, the residents of the community, especially to the east and south where the water would flow, would be severely jeopardized by flooding.

Councilman Kraus urged the Council members to support the approval of the lease and the project.

Councilman Suit said Mr. Matty prepared a lease in April, 2008, and the Association requested 18 revisions which included a statement indicating the City is leasing air space and not land. Councilman Suit said he would prefer to have a limited lease for something tangible, a storm water easement for storm water retention purposes on the lake and spillway.

Although, as Councilman Kraus noted, the City will get the property for \$1 if the Association dissolves, the original lease protected the City in case there is a default. Councilman Suit clarified the Association can cease paying insurance premiums and maintenance obligations and the only right of the city is to pursue legal action which is impractical because they most likely would not be able to afford their obligations. In this case, the City would still not receive any easement over the lake or the spillway.

Councilman Suit asked Mr. Matty if he would recommend the Council sign the current lease which is before them and Mr. Matty said he would not.

Mr. Matty appreciated Councilman Kraus' comments regarding his efforts negotiating the lease, however, noted much time and effort was also put forth by Mr. Busch and Mr. Stanek.

Mr. Matty explained this project involves public financing of a private improvement, however, it differs from most public financing of private improvement projects, whereby most private improvements are publicly financed at 100% of the cost to the private individuals. In this situation, financing of the project involves a burden of \$500,000 on the Association and its members and the remaining costs of the improvements including the engineering, legal counsel, etc. are to be paid by the City. Normally the City would acquire fee simple ownership of the land or a drainage easement when storm water management projects are undertaken. However, early in the negotiations it was made clear the Association would not agree to this process. In order to place some obligation on the Association to assure its obligations were met, it was recommended a warranty deed be placed in escrow. The intent was not to execute or activate the warranty deed, but in the event the Association defaulted on its obligation, the City, through the warranty deed, would become the property owner of the lake.

Mr. Matty explained in June, it was made clear in no uncertain terms by the Association that they would not agree to a warranty deed and before they would agree to turn over their property to the city, they would drain the lake themselves and provide the required retention to the city while maintaining ownership of the property. As a result, it was not possible to proceed with what was hoped to be a commercially reasonable manner for the public financing of the private improvement.

After many hours of negotiations and nine drafts, the document now being considered is the best lease the Association would agree to. However, Mr. Matty is uncomfortable with the lease and does not believe it includes sufficient concepts or protection for the City which are explained in Section A of his January 27th memo that was requested by Councilman Suit. Although the lease is a legal document, he does not recommend approval.

Mr. Matty reviewed the following concepts listed in Section A of his memo which should be included in the lease before he would recommend approval:

3. City's contingency of an executed warranty deed for the lake property and reconstructed dam, to be held in escrow throughout the lease to be activated upon default, including repayment default, of any lease duties and responsibilities of the Association.

6. Renewal of the lease term in perpetuity, at the sole discretion of the City. (Mr. Matty said completion of the project will cost the City in the range of \$750,000 to \$1,000,000 and, therefore, at the discretion of the City, the lease should be permanent in nature.)

7. City's right to outright receive (without the need to pursue in court), any repayment of the City's unpaid costs of construction, by the Association upon the declaration of default by the City.

9. City's right to insist that all maintenance on the reconstructed dam be conducted by a qualified dam maintenance entity.

10. City's right to rely on the existence, for the full term of the lease, of the Obermeyer dam structure which the City is constructing. (Mr. Matty is uncomfortable spending the funds to reconstruct a structure that may be replaced with a different structure in the future).

11. City's right to full and sole control over the design and construction process. (Mr. Matty said the end result of the lease has the City abiding by any change order of the engineer (URS) on this project.

Mr. Matty said his recommendation is not required for approval and explained throughout discussions regarding this project, it is the indication of City staff that this project should go forward. It is now the Council's decision to decide whether to accept the lease as is or to continue further negotiation. Mr. Matty clarified that negotiations did not start with a standard form lease. It began with a concept that was never used in the City before or implemented in storm water management. Therefore, the initial lease was very time consuming and difficult to draft because it involves air space and volumes of storage that the Association has agreed to provide the city.

At Councilman Suit's request, Mr. Matty clarified he would not recommend approval of the lease without the inclusion of the above noted items.

Councilman Stolarsky said he originally agreed to the financial structure of the project and believes there is a demonstrated need for the storm water retention provided by the lake. However, after reviewing Mr. Matty's memo he questions why the Association would not agree to Mr. Matty's concepts and does not support executing the document without Mr. Matty's recommendation.

At Councilman Scott's request, Mr. Matty explained the original proposal presented in the April, 2008 draft had only a permanent easement on the spillway property owned by Mr. Vereb. The easement allowed the spillway to be

located on that site and would have allowed both the Association and the City to enter the spillway property for any maintenance or inspection. The draft received from the Association in June, 2008 included the purchase of the spillway property by the Association. This would result in a limited maintenance easement and only allow the City to enter the property to perform necessary maintenance if the Association does not. The cost of the acquisition is approximately \$31,000 for the property purchase and temporary easements. These costs are included in the \$1.2 million project cost. Mr. Matty clarified there would have also been a cost for the permanent easement included in the original proposal. He further explained the temporary construction easements were always required.

Vice Mayor Drucker explained she originally objected to the agreement in April, 2008 based on the forty-year assessment period because all other assessments are for a twenty-year period and she also objected to the \$500,000 cap on the assessments. She believed a 40%/60% split would have been more appropriate.

However, after further consideration of the City's recent efforts regarding storm water management, which included making improvements to private property such as improving detention/retention basins on private properties, she is more receptive to this arrangement. Vice Mayor Drucker was also concerned about the use of the Obermeyer dam which is relatively uncommon. She understands to create a new basin, the cost would be more than the City's contribution to the Briar Lake improvements.

Although Mr. Matty explained his recommendation is not required for the Council's approval of the agreement, Vice Mayor Drucker said she relies on Mr. Matty's legal opinions to protect the City and, therefore, she will not support the agreement without Mr. Matty's recommendation.

Vice Mayor Drucker was also disappointed that throughout the negotiations, Mr. Matty and the Association were under the impression there were four votes for approval, however, many of the Council Members were not aware of the drastic changes in what was previously approved in April until two weeks ago when the current agreement was received.

Councilman Kraus said the experts involved in this case have documented that this is a project that must be undertaken and asked where the water would flow if these improvements were not made.

Mr. Stanek said this has been the concern for the last two years and the reason for undertaking all the studies that confirmed the lake accommodated the storm water management. He advised that Briar Hill Lake provides the same amount of storage as the combined total of the three new basins the City has built.

Mr. Stanek concluded that if the City were forced to provide for storm water storage elsewhere in the City, it would most likely cost twice as much money, require acquisition of property by eminent domain and necessitate going through

the permitting process which would cause a delay of at least two to three years. Although he is aware there are many legal issues involved in this type of project, he is hopeful this situation will be resolved because he feels it is the best solution. If these improvements are not made, studies have identified that flooding will occur on Briar Hill Drive and Sherbrook Park Drive as well as Route 91.

Councilman Pelunis reviewed the documents provided by Councilman Suit and understands Mr. Matty's opinion regarding the agreement. However, according to Mr. Stanek, it appears another choice is not available for retention at this time. The cost and time involved in an alternate future plan is unknown and will most likely be more costly and the delay will result in more flooding and damage to residents.

Vice Mayor Drucker said the lake is a part of the city's storm water management plan and questioned what would happen if it is breached. Mr. Stanek is unsure, however, the ODNR has already cited the violation. Vice Mayor Drucker explained Mr. Matty's opinion is very important because the decision made regarding this lake will affect how the City must address other lakes in the city as they relate to storm water management.

Councilman Suit understands the serious nature of this issue, however, he read a portion of correspondence from the Association indicating an alternative plan has been developed which would allow the lake to remain with a reduced level. He does not feel the Obermeyer dam is the only alternative.

Councilman Kraus said the correspondence referred to by Councilman Suit was considered as a last resort and was addressed for the purpose of demonstrating there was no scenario by which the Association could not provide the City's storage requirement. Although he understands Vice Mayor Drucker's concern about setting a precedent for other lakes, he believes this issue is unique. Mr. Stanek confirmed it is the only Class 1 dam located in the City.

Councilman Pelunis said he also believes it is a completely different situation from all the other lakes in the City.

Councilman Suit said the City has no legal obligation to take action in this situation because it involves a private lake and a private dam. If the City does nothing, ODNR will breach the dam and assess the homeowners approximately \$300,000. He requested Mr. Shorr explain the alternate plan which was considered.

Councilman Scott said this project has been discussed for many years and it was finally agreed that the Obermeyer dam would be a good solution. The Council has also agreed on the \$500,000 cap. He believes now is not the time to revisit other alternatives. His major objection was the forty year assessment period because his residents have a twenty year assessment period. The issue now is to agree on terms of the lease which are acceptable to the Law Director and move forward.

Mr. Adam Fair addressed the following statements:

URS has been referred to as the Association's "expert" – Mr. Fair said when he first became involved in this project, URS was hired by the City to do the studies and the Association continued to work with them.

"If ODNR breaches the lake, the water will continue to flow through what is now the lake and will not be retained." It will flow downhill into Sherbrook and Carriage Park. He said the Association is not bound to offer retention on its land because it is not a natural lake.

"This is an unprecedented project that was not a basic form lease." There was no original lease. The idea to lease air space originated from the Public Works Director and not the Association.

"The easement over Mr. Vereb's land was never considered as a permanent construction easement." It was always considered a temporary construction easement. As the project moved forward, the City noted access to it was necessary which initiated the exhibit and included access over the Association land to enter the spillway to provide for any maintenance.

Mr. Tim Singer, 5880 Briar Hill, spoke regarding maintenance and said there is a professional company under a tentative contract to provide maintenance that cannot be provided by the Association.

Mr. Fair said the Association has always made it clear that it does not want to give up its land to the City. He discussed the City's offer of assistance regarding an EPA Grant which would designate the lake as dry detention, however, was denied by the Association. He urged the Council to make a decision regarding the project.

Mr. Singer said he believed the contract was acceptable because Mr. Matty referred it to the Council for consideration. However, if it is not acceptable to the majority of the Council, the Association is willing to continue to negotiate to reach a satisfactory agreement.

Mr. Fair addressed Councilman Suit's comments regarding the mention of a plan "B" in an e-mail. He explained the e-mail from Mr. Powers to Mr. Matty referenced the first meeting in regard to negotiating the lease. It referred to the possibility of an issue in the future with the Obermeyer system. He clarified the City is actually leasing the air space and the means for providing retention within the air space is irrelevant as long as it is approved by the ODNR. The intent of the statement was to clarify that the Association was not committing to using the Obermeyer gate technology for the next 99 years because there may be a better system in the future. Mr. Fair believes this lease protects both the City of Solon and future associations, although the Association is willing to continue to work with the City.

Vice Mayor Drucker feels progress is being made, however, she cannot support approval of the agreement without Mr. Matty's recommendation.

Mr. Fair said until this meeting, he was unaware that Mr. Matty did not approve of the lease agreement.

Mr. Matty stated that throughout the negotiations he made it known to all of the parties that there was a vocal minority of the Council that would not support the agreement, therefore, he questioned Mr. Fair's statement that he was unaware of any issues with the agreement. He believes it is apparent the majority of the Council would require additional protection for the City included in the lease agreement.

Mr. Fair agreed Mr. Matty was very open in his opinion regarding the project, but clarified he was unaware that Mr. Matty did not approve of the lease agreement.

In response to Councilman Suit's comments related to the correspondence from Mr. Powers regarding an alternate plan, Mr. Fair explained the letter was in reference to the very first meeting when the focus was on the style or methodology of the retention. The Association wanted to point out that in the future, there may be another option for water storage and they wanted an opportunity to explore another method. The letter references leveling the lake several feet which is what the Association is trying to avoid. This discussion was to protect future Association Board Members by retaining ownership of the lake while continuing to provide water retention. After this discussion, Mr. Fair phoned Mr. Shorr and asked if for some reason the Obermeyer system ceased to be an option, is there another option. Mr. Shorr provided the option "B". Mr. Fair said this option was presented as a possible future option if the Obermeyer system was no longer viable.

Councilman Suit clarified URS is listed as the Association's engineer in the agreement.

Councilman Stolarsky said he is hopeful this issue can be resolved. He supports the financing and the need for the project. However, he believes there is a need for additional terms to protect the City.

Mr. Shorr agreed with Mr. Fair's explanation regarding the alternate. Although he provided the option, the Homeowners Association was not in agreement because they did not want to lower the lake. Although, they did agree to lower it one foot in an effort to cooperate with the City.

Councilman Kraus suggested Mr. Matty and the Association continue to negotiate and asked Mr. Matty to make his opinion regarding the agreement known to the Association before the next meeting.

Councilman Scott provided a copy of Mr. Matty's memo to Mr. Singer and advised him to be prepared to address Items 3, 6, 7, 9, 10 and 11 which are of concern to Mr. Matty.

Mr. Matty said he will not remain neutral in this situation and will provide his recommendation to the Council. He will request Mr. Stanek and Mr. Busch be available to meet with him and the Association's representatives to negotiate further. He suggested, however, the Association consider including those concepts within the lease because he feels the lease requires these concepts before he can recommend approval.

Councilman Suit questioned Mr. Shorr regarding the 23.9 acre feet of water storage noted in his technical brief of August, 2008 and asked if that should be stated in the lease agreement. Mr. Fair explained the differences in calculations and Mr. Shorr concluded the 23.9 figure should be stated in the lease.

Ordinance No 2009-08 remained on second reading.

NEW:

7. ORDINANCE NO. 2009-23 AUTHORIZING THE FINANCE DIRECTOR TO ADVERTISE FOR BIDS FOR A WIRELESS WIFI NETWORK FOR SOLON CITY HALL AND SOLON CENTER FOR THE ARTS, was read for first reading.

Councilman Russo explained the ordinance will allow installation of WiFi at City Hall and Solon Center for the Arts to accommodate visitors making a presentation to the Council or visitors meeting with City employees who may need a wireless connection and for parents of children participating in programs at the Arts Center who may need to work while waiting for their child.

Motion by Councilman Russo, seconded by Councilman Pelunis to suspend the rules and place Ordinance No. 2009-23 on third and final reading.

In answer to Councilman Pelunis' question, Mr. Pokorny said the WiFi will be available to both visitors and employees. The estimated cost is \$30,000 for installation.

Vice Mayor Drucker said a letter was received from Mr. Peter Ormond questioning the expense. Mr. Ormond believes visitors to City Hall or the Arts Center should bring their own air card for connection. Mr. Ormond believes taxpayers should not be responsible for a luxury convenience.

Vice Mayor Drucker said during the Finance Committee meeting, Councilman Stolarsky questioned the need for WiFi connection by the departments and in the parking lot. She spoke with Ms. Prasser who indicated that she is unaware of requests for this need by Solon Center for the Arts patrons, however, she will conduct a survey before the item is bid to determine if there is a need. Vice Mayor Drucker said City Hall directors will be surveyed to determine if there is a need for the service and if such a need exists, she will support the legislation.

Although Councilman Pelunis believes WiFi connection at the Community Park and Community Center is essential, he said the number of City Hall visitors is

minimal. He does not object to advertising for bids, however, he believes more discussion is necessary.

Councilman Suit suggested department heads advise the Council of their need for WiFi.

Councilman Scott supported the connection at the Community Center and Community Park and possibly extending connection to businesses and the police station, however, he agrees with Mr. Ormond that more review is necessary to determine if the City Hall connection is a necessity. Councilman Scott will support advertising for bids and suggested Mr. Pokorny obtain a survey at City Hall.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

8. ORDINANCE NO. 2009-24 AUTHORIZING ELIGIBLE FULL-TIME EMPLOYEES TO PARTICIPATE IN A HEALTHCARE REIMBURSEMENT ACCOUNT PLAN WITH SECURITIES FINANCIAL RESOURCES, INC. AND DECLARING AN EMERGENCY, was read for first reading.

Ordinance No. 2009-24 remained on first reading.

9. ORDINANCE NO. 2009-25 AUTHORIZING ELIGIBLE FULL-TIME EMPLOYEES TO PARTICIPATE IN A HEALTHCARE REIMBURSEMENT ACCOUNT PLAN WITH ICMA AND DELCARING AN EMERGENCY, was read for first reading.

Ordinance No. 2009-25 remained on first reading.

11. ORDINANCE NO. 2009-26 AUTHORIZING CHARLES DEGROSS TO REPRESENT THE CITY IN LABOR NEGOTIATIONS WITH VARIOUS COLLECTIVE BARGAINING GROUPS AND DECLARING AN EMERGENCY, was read for first reading.

Ordinance No. 2009-26 remained on first reading.

12. ORDINANCE NO. 2009-27 AUTHORIZING THE LAW FIRM OF RADEMAKER, MATTY, MCCLELLAND AND GREVE, LLC TO REPRESENT THE CITY IN VARIOUS LABOR NEGOTIATIONS AND DECLARING AN EMERGENCY, was read for first reading.

Ordinance No. 2009-27 remained on first reading.

16. ORDINANCE NO. 2009-28 ACCEPTING THE BID OF SOUTHEAST GOLF CART COMPANY FOR THE PURCHASE OF GOLF CARTS FOR GRANTWOOD, was read for first reading.

Councilman Russo believes it is necessary to review a business plan to justify this expense. He believes Grantwood's revenues will decrease based on current economic conditions and future planning should be discussed.

Councilman Stolarsky said the Finance Committee reviewed the request and, at that time, Mr. Mazzeo explained the purchase will produce additional revenue greater than what is realized by leasing the carts. Councilman Stolarsky indicated that Grantwood is now a city department and should be made viable by providing maintenance and updates, therefore, he believes it is a necessary expense.

Councilman Suit questioned the amount of income the golf carts would generate per year. Mr. Mazzeo said after expenses, Grantwood would net approximately \$170,000. If the carts are leased, Grantwood would net approximately \$120,000 each year for a six year period and the net amount would decrease to approximately \$115,000 for a one year lease.

Mr. Mazzeo also noted in the past, Grantwood was able to participate in a revenue sharing program which is no longer available.

While he understands the importance of a business plan, Mr. Mazzeo explained due to time sensitive issues which needed to be addressed and completed by spring so as not to interfere with the golf season, he was unable to complete a business plan before acquisition of the carts needed to be addressed.

The purchase of golf carts was determined to be financially beneficial for the long term as golf carts are the second largest producer of revenue for Grantwood. Mr. Mazzeo explained his procedure for choosing the highest producing revenue regarding buying or leasing golf carts. Although he understands the current economic conditions, Mr. Mazzeo believes purchasing golf carts will generate greater income for Grantwood in the future and should be considered a long-term investment.

Councilman Scott said Grantwood does not currently have golf carts as the lease agreement expired. By purchasing the golf carts, should the future hold other uses for the property, the golf carts will retain their value and can be sold. Councilman Scott believes Grantwood should be supported.

Councilman Russo asked if additional personnel would be necessary for the maintenance of the golf carts. Mr. Mazzeo said there is a proposal from the golf cart company at a cost of approximately \$14,000 for maintenance, however, a decision has not yet been made regarding whether to maintain them in-house or through a provider. He noted if the City chooses a one year lease agreement, there are currently no carts available and there would be no guarantee regarding the condition of the carts Grantwood would receive.

Councilman Russo asked if all 75 carts would be stored in the storage building or would additional storage be necessary. Mr. Mazzeo said if Grantwood receives

the temporary fire station building, 50 carts will be stored there and the remaining 25 carts would be covered and stored under the picnic pavilion.

Councilman Russo agreed the voters decided to make Grantwood a City department, however, he is concerned Grantwood will need to be subsidized several hundred thousand dollars per year and he questioned the necessity of the expense based on the current economy.

Vice Mayor Drucker said the purchase will be a one-time fee from the capital improvement fund and, as a new City department, this is an opportunity for Grantwood to make such purchases which will not continue on a regular basis.

Mr. Mazzeo agreed although there are other expenditures planned for this year, there will be a significant drop in expenditures after this first year.

Motion by Councilman Scott, seconded by Councilman Stolarsky to suspend the rules and place Ordinance No. 2009-28 on third and final reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Scott, Stolarsky, Suit

Nay: Russo

Motion Carried

Final Passage: Aye: Drucker, Kraus, Pelunis, Scott, Stolarsky, Suit

Nay: Russo

Motion Carried

17. ORDINANCE NO. 2009-29 AUTHORIZING THE FINANCE DIRECTOR TO ADVERTISE FOR BIDS FOR VARIOUS EQUIPMENT REQUIRED FOR PHASE 2 OF THE AUTOMATED SOLID WASTE COLLECTION PROGRAM, was read for first reading.

Councilman Suit questioned if there would be an economic advantage to combining the purchase of tipper carts required for Phase 3 with those required for Phase 2.

Service Director Bandiera said with the increasing price of plastic, he would like to request pricing for all remaining tipper carts. He expects prices to be lower than Phase 1 due to decreasing oil prices, however, it may be cost effective to purchase the carts before oil prices rise. He was unsure how many carts are needed for Phase 3 because it is unknown how many carts will be purchased by residents for Phases 1 and 2.

Vice Mayor Drucker asked how Mr. Bandiera expects better pricing and if the price is based on the quantity of carts ordered. Mr. Bandiera said increased quantity may lower the price.

Councilman Stolarsky questioned if purchasing Phase 3 carts now will accelerate the implementation of Phase 3 and Mr. Bandiera said the additional truck will be necessary to complete Phase 3. Mr. Bandiera said the additional carts would have to be stored until the additional truck is purchased and Phase 3 is implemented.

Councilman Suit was concerned if Phase 3 carts are purchased next year, the cost of fuel may rise, therefore, the cost of the carts would increase. He suggested it be bid as an alternate.

Mr. Matty said the ordinance should be amended by identifying the phases and quantities correctly.

Mr. Bandiera said a quantity of 3,000 carts should be the estimated for Phase 3 and Phase 2 would require 2,668 carts.

At Mr. Matty's request, Mr. Bandiera clarified an additional truck is necessary to implement Phase 3 and Vice Mayor Drucker said an additional truck is not being considered at this time, just the additional tipper carts. However, Mr. Bandiera suggested it might be beneficial to request an alternate bid for the additional truck for Phase 3 to estimate the price increase between the different phases.

Although Mr. Stanek said storage of additional tipper carts could be an issue, he believes that accelerating Phase 3 may be beneficial because it has been reported that recycling has significantly increased in the areas where the automated waste removal has been implemented and the City is now paying for waste removal.

Vice Mayor Drucker confirmed the Phase 3 alternate bid will include one 2009 automated rubbish truck and 3,000 tipper carts including delivery.

Motion by Councilman Suit, seconded by Councilman Scott to amend Ordinance No. 2009-29 to include an additional truck and tipper carts for Phase 3 of the automated waste removal program as an alternate in the bid.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

Motion by Councilman Suit, seconded by Councilman Scott to suspend the rules and place Ordinance No. 2009-29 as amended on third and final reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

CORRESPONDENCE:

10. Correspondence from the Clerk regarding the February 16, 2009 regular Council meeting.

The February 16, 2009 Council meeting falls on the Presidents' Day holiday.

Motion by Councilman Scott, seconded by Councilman Pelunis to reschedule the Monday, February 16, 2009 Council meeting date to Tuesday, February 17, 2009.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

CONSENT:

Motion by Councilman Stolarsky, seconded by Councilman Russo to suspend the rules and place the following Consent items on third and final reading.

13. ORDINANCE NO. 2009-30 AMENDING SECTION 260.13B OF THE ADMINISTRATION CODE ESTABLISHING THE UNIFORM ALLOWANCE FOR POLICE AND FIRE DEPARTMENT EMPLOYEES NOT COVERED BY A COLLECTIVE BARGAINING AGREEMENT AND DECLARING AN EMERGENCY, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

14. ORDINANCE NO. 2009-31 AMENDING SECTION 242.06B OF THE ADMINISTRATION CODE AMENDING THE RATES ESTABLISHED FOR EMERGENCY MEDICAL SERVICES, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

15. ORDINANCE NO. 2009-32 ACCEPTING THE PROPOSAL OF EMERGITECH, INC. FOR AN ANNUAL MAINTENANCE AGREEMENT FOR COMPUTER HARDWARE AND SOFTWARE SUPPORT SERVICES RELATED TO THE SAFETY FORCES, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

18. ORDINANCE NO. 2009-33 ACCEPTING A CONTRACT FOR A STORM SEWER EASEMENT ON PP# 952-42-009 LOCATED AT 34505 BRIDLE TRAIL DRIVE IN CONNECTION WITH THE MILES ROAD STORM SEWER IMPROVEMENTS, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

COMMENTS FROM COUNCIL:

In turn, members of Council commended the Police Chief and his staff for their efforts and professionalism during a recent incident.

In turn, members of Council commended Mr. Bandiera and his staff for their snow plowing efforts during a recent snow storm.

Councilman Pelunis reported he held a meeting with tenants of Liberty Hill Apartments which the Mayor attended, regarding exterior and interior maintenance issues. Councilman Pelunis and the Mayor will meet with Mr. Frankland to discuss the maintenance code requirements. A follow-up meeting will be scheduled and Mr. Frankland was requested to attend to discuss the property maintenance code and how it will affect the residents.

Councilman Scott said the recent increase in sewer rates does not affect the majority of the city.

Councilman Scott said on Monday, February 9th, Pettibone Road will be closed from Aurora Road to the east corporate line for approximately seven days as part of the Pettibone Reconstruction Project.

Councilman Suit requested Mr. Matty clarify the actual cost to the city for the purchase of the Maresh property.

Councilman Suit thanked the Service Department for their efforts and explained he participated in snow plowing in a Service Department truck during the recent snow storm.

In answer to Vice Mayor Drucker's question regarding the Aurora East Project, Mr. Busch said it is near completion.

COMMENTS FROM THE ADMINISTRATION

Mayor Patton commended the Police and Service Departments for their efforts.

Mayor Patton forwarded a memo to Council from the Board of Elections regarding their desire to change the number of precincts in Solon from 23 to 18. He noted two precincts would not change. He suggested later in the year, a ward redistricting group be commissioned, however, the actual redistricting cannot take place until 2010.

Mayor Patton thanked the Council, city employees and residents of Solon who expressed their condolences for the loss of his son.

Mr. Matty explained there is a tentative settlement statement for the purchase of approximately 14 acres of the Maresh property located in Ward 4. He said the City is using interest that it must already pay on a WRRSP loan for the purchase of this land. The total cost for the land including all closing costs is \$771,823.75. The only part of this purchase that the City must use additional funds for is \$60,000. The bottom line purchase price for 14 acres of land which cannot be developed will be this \$60,000. \$138,000 of the city's interest is available for the restoration costs for the stream bed and the Council has authorized up to \$300,000 for the restoration plan. Mr. Hromco will forward a report to the Council.

In regard to the question of a municipality obtaining information concerning a railroad incident, a federal code section indicates that a report will be filed by the railroad carrier on all accidents and incidents resulting in injury or death to an individual or damage to equipment or a road bed arising from the operations during the month. Mr. Matty will request the information.

Mr. Matty said regarding negotiations with Kennametal and Tameran for the purchase of land on Beaver Meadow Parkway, the Tameran lot split can be reviewed by the Safety and Public Properties Committee conditioned upon the three parties, Tameran, Kennametal and the City reaching an agreement. The goal is for the city to own the entire roadway which everyone can use.

Chief Godzich thanked everyone for their comments and said training was essential for the positive outcome of the recent incident.

Chief Shaw explained he was notified by a resident of a recent attempt by telephone to solicit donations for the Fire Department. He clarified the Fire Department does not solicit for donations and warned residents be aware of the fraud. Chief Godzich said the Police Department does not solicit either.

Mr. Frankland said the Planning Department is suggesting it is time to transition building inspectors from focusing on new construction to property maintenance to ensure the integrity of building infrastructure is maintained. Mr. Frankland suggested a work session be scheduled to discuss various programs which can be implemented regarding property maintenance.

Mr. Bandiera thanked everyone for their comments regarding snow removal and recognized other departments for their assistance.

Motion by Councilman Stolarsky, seconded by Councilman Scott to adjourn into executive session at 10:48 P.M. for the purpose of discussing compensation of a public employee and property acquisition.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit

Nay: None

Motion Carried

The meeting reconvened at 11:42 P.M.

Motion by Councilman Stolarsky, seconded by Councilman Pelunis to adjourn the meeting at 11:42 P.M.

Vice Mayor

Clerk of Council